

REMARKS

This is in response to the Advisory Action, dated April 2, 2003, where the Examiner has rejected claims 1 and 4-53. After the present response, claims 1 and 4-53 are pending in the present application. Reconsideration and allowance of pending claims 1 and 4-53 in view of the following remarks are respectfully requested.

A. Rejection of Claims 1 and 4-53 under 35 U.S.C. § 102(e)

The Examiner has rejected claims 1 and 4-53 under 35 U.S.C. § 102(e), as being anticipated by Shima (USPN 6,333,789). Applicants respectfully disagree.

In response to the Office Action, dated August 14, 2002, applicants submitted affidavits under 37 C.F.R. § 1.131 to swear behind Shima. However, in the subsequent Office Action, dated January 10, 2003, the Examiner found the evidence submitted by applicants insufficient for swearing behind the effective date of Shima. In finding applicants' evidence insufficient with respect to claim 1, the Examiner stated: "the innovation disclosure makes no mention of the modem comprising more than one physical channels" and, also, it "makes no mention of defining the first logical channel according to a command type in the command information nor defining the second logical channel according to a data type in the data information."

In response to the Office Action, dated January 10, 2003, applicants respectfully submitted that the Examiner's approach was misguided, because the Examiner had focused on finding support for each and every element of claim 1 in the innovation disclosure, whereas according to the well-established law, all applicants need to show is that Shima does not show anything more than what the innovation disclosure (i.e. nothing more than what applicants'

evidence under 37 CFR 131) discloses, teaches or suggests to one of ordinary skill in the art with respect to the claims at issue.

In the Advisory Action, dated April 2, 2003, it seems that the Examiner has agreed with applicants' assertion with respect to the controlling legal authority; however, the Examiner has maintained his rejection of the claims and stated that "Shima discloses the specific type of data is print data and the specific type of commands issued are requests for canceling a print job and a request for stopping printing if necessary (column 5, lines 19-25)." The Examiner goes on to state that "the innovation disclosure does not disclose the specific type of data or specific type of commands defining the data and command channel as stated in the claims."

Applicants respectfully disagree with the Examiner's rejection of claims based on Shima, and also the Examiner's assertion that the innovation disclosure is insufficient to swear behind Shima, assuming, arguendo, that Shima anticipates the pending claims. However, in order to expedite the prosecution of the present application, applicants have enclosed additional affidavits executed by the inventors of the present invention. According to the enclosed affidavits, the new evidence accompanying the new affidavits clearly establishes that applicants were in possession of the invention prior to the effective filing date of Shima, i.e. September 10, 1998, for purposes of 35 U.S.C. § 102(e).

As shown in the new evidence, entitled "RL56CSM/3 Host Software Interface Description (Preliminary)", dated March 16, 1998, Section 5 (General Host Interface Description) and Section 6 (Detailed Message Description), inventors were in possession of the invention of claims 1 and 4-53 prior to the effective filing date of Shima or September 10, 1998. (See pages 10-33.)

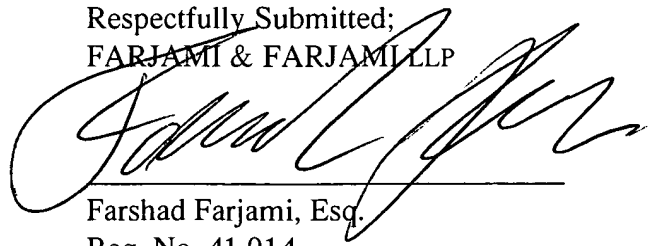
For example, Section 5.8 (Command Interface) discloses that separate logical channels can be used for commands and data. (See page 10.) Further, Section 6.1 illustrates the message passing mechanism and Section 6.2 (Message Format) discloses a Message ID word, which includes a Message Type and a Channel Number. (See page 11.) In addition, Section 6.2 (Defined Messages) discloses specific messages, including message names, abbreviations and message type values. (See page 12.) Applicants respectfully submit that this new evidence establishes that applicants were in possession of the invention of claims 1 and 4-53 prior to Shima's effective filing date of September 10, 1998.

Accordingly, applicants respectfully submit that claims 1 and 4-53 should be allowed over Shima.

B. Conclusion

For all the foregoing reasons, an early allowance and issuance of claims 1 and 4-53 pending in the present application are respectfully requested. The Examiner is invited to contact the undersigned for any questions.

Respectfully Submitted;
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